Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	CCB/CPD File No. 98-63
	)	
	)	
Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	CC Docket No. 98-157
	)	
	)	

MCI WORLDCOM COMMENTS

MCI WORLDCOM, INC.

Alan Buzacott
Henry G. Hultquist
1801 Pennsylvania Ave., N.W.
Washington, DC 20006
(202) 887-3204

October 29, 1999

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	)	
	)	
Access Charge Reform	)	**CC Docket No. 96-262**
	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
	)	
Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers	)	**CCB/CPD File No. 98-63**
	)	
Petition of U S West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA	)	**CC Docket No. 98-157**
	)	

MCI WORLDCOM COMMENTS

I. Introduction and Summary

MCI WorldCom, Inc. (MCI WorldCom) hereby submits its comments on the Further Notice of Proposed Rulemaking in the above-captioned proceedings.

Rather than order disruptive changes to the local switching rate structure, the Commission should take immediate steps to reduce the current per-minute local switching charge closer to forward-looking cost. Among the steps that the Commission should take is to modify its price cap formula to reflect true interstate productivity, correct for past recovery of non-traffic sensitive (NTS) local switching costs through per-

minute rates, and correct for the X-factor reductions that were applied to the TIC rather than to traffic sensitive basket rates.

Any framework for price cap LEC geographic deaveraging of common line rates should be crafted to prevent the price cap LECs from pricing below cost in the areas where competition is beginning to develop, or pricing at unreasonable levels in the areas where competition is slower to develop. The price cap LECs should not be permitted to deaverage until a competitive showing is made, and even then the deaveraging process should then be governed by safeguards such as price floors, price ceilings, and constraints on the rate of change in rates in each zone.

The Commission should not adopt a framework for Phase II pricing flexibility for switched access services at this time. There has been absolutely no indication that competitive entry will even begin to constrain price cap LEC rates for these services in the foreseeable future. And there has certainly been insufficient experience with competition for common line and traffic sensitive services for the Commission to identify the indicators that should be examined to determine whether competitive entry is sufficient to constrain switched access prices, or to guess the appropriate "trigger" level for these indicators.

II. The Deaveraging of Common Line Rates Should be Subject to Stringent Conditions

The Commission's proposal to permit the price cap LECs to deaverage their common line and traffic sensitive rates presents a substantial risk to the development of

competition and to consumer welfare. Competition is at risk because the price cap LECs could use their deaveraging authority to price below cost in the areas where competition is most likely to develop. Consumer welfare is at risk because the price cap LECs could use their deaveraging authority to increase rates in less-competitive areas to unreasonable levels, in order to recoup any revenues lost through below-cost pricing in more competitive areas.

In order to limit, to some extent, the risk associated with price cap LEC deaveraging of interstate switched access rates, the Commission should (1) continue to prohibit price cap LECs from deaveraging local switching rates;[1] and (2) establish several conditions that a price cap LEC would have to satisfy before obtaining authority to geographically deaverage common line rates:

1. The Commission should allow a price cap LEC to geographically deaverage common line rates only if the price cap LEC is providing unbundled loops at deaveraged rates.[2] Deaveraged UNE prices are necessary, but not sufficient, for new entrants to compete with price cap LECs offering interstate access services at deaveraged rates.

---

[1]Little evidence of a cost basis for deaveraging local switching rates has been placed in the record. Given the tenuous link between geography and switching costs, deaveraging of local switching rates is likely to be used by the LECs simply to move revenues from more-competitive to less-competitive areas.

[2]The Commission's recently-adopted universal service order lifts the stay of its geographic deaveraging rules, effective six months from the date of release of the universal service order. The lifting of the stay is not sufficient grounds for the LECs to be given deaveraging authority for interstate access services; the LECs should actually be providing unbundled elements at deaveraged prices.

2. The Commission should allow a price cap LEC to geographically deaverage common line rates only if it is providing the "UNE platform" throughout its service area. Widespread availability of the UNE platform is necessary, but not sufficient, for preventing price cap LECs from increasing geographically-deaveraged interstate access rates to unreasonable levels, particularly in areas where competition would otherwise develop more slowly.

3. The Commission should allow a price cap LEC to geographically deaverage common line rates only if the LEC's carrier common line (CCL) and multiline business presubscribed interexchange carrier charge (PICC) rates have been reduced to zero. The CCL and multiline business PICC rates are subsidy elements for which there is no cost-based justification for deaveraging. Cost-based deaveraging requires as its starting point common line rates that are recovering only the average cost per line, i.e., when the multiline business PICC is no longer subsidizing residential rates. With this starting point, it is feasible to craft safeguards that would limit the LECs' ability to use the deaveraging process in an anticompetitive manner.

Even after a price cap LEC is granted deaveraging authority, the deaveraging process should be governed by several competitive safeguards:

1. The Commission should permit price cap LECs to deaverage common line rates only on the basis of the zones established by the states for unbundled element pricing. The use of unbundled element pricing zones as the basis for interstate access pricing zones provides at least some assurance that the zones are cost-based and not selected merely to target rate reductions to limited areas of emerging competition. This

approach would have the added benefit of giving an incentive to the LEC to recognize legitimate zone cost differences in setting its UNE rates.

2. The LECs should be limited to increasing their common line rates in any pricing zone by no more than 5 percent per year relative to the change in the price cap index, and should also be limited to reducing their common line rates in any pricing zone by no more than 10 percent per year relative to the change in the price cap index. These pricing bands would be modeled on the +5 percent/-10 percent pricing bands the Commission applied to transport rate deaveraging in the expanded interconnection orders. In these orders. the Commission found that upper and lower pricing limits were necessary to ensure that customers in higher cost areas were not harmed by sudden price increases.[3] The Commission has recently reaffirmed the need for constraints on the deaveraging process, even for more-competitive transport services, concluding that "some limit on the rate of price increases within zones remains desirable in order to prevent the disruptive effects of rapid and unexpected price increases."[4]

3. In addition to constraints on the annual rate changes, the Commission should adopt a system of price floors and price ceilings to prevent the LECs from

---

[3]Expanded Interconnection with Local Telephone Company Facilities, Second Report and Order and Third Notice of Proposed Rulemaking, 8 FCC Rcd 7374, 7430-7431 (1993) ("[Z]one pricing bands limit the magnitude of rate differentials between zones and permit their gradual introduction so that customers in higher cost areas are not harmed. Without zone pricing bands, the LECs could greatly reduce prices in one zone, while drastically increasing them in another . . .")

[4]In the Matter of Access Charge Reform, Fifth Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-262, released August 27, 1999 (Access Reform Fifth Report and Order) at ¶ 63.

preempting competitive entry through below-cost rates, charging unreasonable rates in less competitive areas, or shifting all of the above-cost revenues currently embedded in common line rates to customers in less-competitive areas. In some respects, the price floor/price ceiling mechanism outlined in the CALLS plan could provide a useful model for the Commission.[5] The CALLS plan establishes, for example, a price ceiling of 25 percent of the combined unbundled loop and port rate in the highest cost zone, plus an increment reflecting the difference between the average price cap revenue per line and the forward-looking cost per line.[6] A price ceiling of this type would provide at least some assurance that the LEC cannot shift all of its above-cost common line revenues to the areas subject to the least competition.

4. The price cap LECs should be permitted to shift revenues foregone as the result of SLC reductions in low-cost areas only to SLC rates of the same customer class in other areas. The price cap LECs should be prohibited from shifting revenues foregone as the result of SLC reductions to PICC or CCL rates; such an outcome would be contrary to the Access Reform First Report and Order's objectives of ending per-minute recovery of NTS common line costs and of recovering common line costs, where possible, from end users.[7] And, in no event should common line rate deaveraging be implemented in such a manner that it pushes marketing revenues that would otherwise

---

[5]CALLS Plan, § 2.1.5.6.2.

[6]Id. (See also CALLS Plan, § 2.1.1.3.

[7]In the Matter of Access Charge Reform, First Report and Order, 12 FCC Rcd 15982, 16008-16009, 16013 (1997) (Access Reform First Report and Order).

be recovered through end user charges into the PICC or the per-minute marketing charge; such an outcome would be inconsistent with the Commission's conclusion that recovery of marketing expenses from end users was most consistent with cost-causation principles.[8]

III. The Commission Should Not Establish a Framework for Switched Access Phase II Pricing Flexibility At This Time

In the Notice, the Commission asks for comment on the appropriate triggers for Phase II relief for the price cap LECs' common line and traffic sensitive services. The Commission also asks whether the Phase II relief for common line and traffic sensitive services should be the same as the Phase II relief provided for transport services in the Access Reform Fifth Report and Order, i.e., elimination of price cap regulation, elimination of the Part 69 rate structure rules, and the authority to file tariffs for these services on one day's notice.

The Commission should not be even considering the adoption of a Phase II framework that could lead to the end of price cap regulation for traffic sensitive or common line services. To date, there has not been even the slightest indication that competitive entry will begin to constrain price cap LEC rates for these services in the foreseeable future. Without exception, every price cap LEC is pricing its common line and traffic sensitive services at the maximum permitted by the price cap rules.

---

[8] Id. at 16121.

In the Access Reform First Report and Order. the Commission theorized that IXCs could influence the level of a LEC's access charges by threatening to win the local customer and thereby self-supply access.[9] As an initial matter, this theory does not even apply to terminating ILEC access charges.[10] There has, moreover, been absolutely no real-world evidence to support the theory that the threat of access self-supply can constrain even originating ILEC access charges. In part, this may be because the theory has not been tested: ILEC intransigence has made it impossible for IXCs to self-supply access on a wide scale. But if the Commission is concerned about the market's ability to constrain CLEC access prices,[11] then surely it is premature for the Commission to be proposing steps that would end price cap regulation for the same services when offered by the ILECs.

There is certainly insufficient experience with competition for common line and traffic sensitive services for the Commission to identify the indicators that should be examined to determine whether competitive entry is sufficient to constrain switched access prices, or to guess at what the appropriate "trigger" level for these indicators would be. Any "trigger" level that the Commission might pick today would be without any real-world, or even theoretical, foundation, and therefore completely arbitrary.

---

[9]Access Reform First Report and Order, 12 FCC Rcd at 16095-16096, 16102, 16135-16136.

[10]Id. at 16135-16136.

[11]Notice, ¶¶ 236-257.

The suggestion in the Notice -- that the Commission could use the same indicator used for Phase I, but with a higher "trigger" threshold -- should definitely not be adopted. Not only would whatever "trigger" threshold the Commission picks be arbitrary, but the indicator used for Phase I does not test for any of the key prerequisites for local competition. It does not test, for example, if the ILEC is providing unbundled network elements "quickly, at economic cost, and in adequate quantities" -- three key assumptions underlying the Commission's theory that ILEC access rates would be constrained by IXC self-supply of access.[12]

The risks associated with adopting a framework that would grant the LECs premature relief from price cap regulation of common line and traffic sensitive services are substantial. As a growing number of price cap LECs enter the interLATA market, the danger from premature deregulation is not only that IXCs will be charged rates that are not just and reasonable but that these unreasonable rates will enable the ILECs to engage in a massive price squeeze. The risk of a price squeeze is already a significant concern today, even with the LECs' rates subject to price cap regulation; this risk will be magnified dramatically if the price cap constraint is removed. As the Commission observed in the Access Reform First Report and Order, "[a]bsent appropiate regulation, an incumbent LEC and its interexchange affiliate could potentially implement a price squeeze once the incumbent LEC began offering in-region, interexchange toll services."[13]

---

[12]Access Reform First Report and Order, 12 FCC Rcd at 16102.

[13]Id. at 16101 (emphasis added).

Given these risks, and the lack of any indication that competitive entry will be sufficient to constrain ILEC common line and traffic sensitive rates in the foreseeable future, the Commission should not adopt a switched access Phase II framework at this time.

IV. Local Switching Issues

The Commission asks for comment on a proposal to replace the current per-minute local switching rate structure with a per-trunk rate structure. Specifically, the Commission asks whether it should require price cap LECs to charge for local switching on the basis of the number of trunks connected to a given end office switch.

A. The Commission Should Not Adopt a Capacity Charge

The Commission's proposed change in the local switching rate structure is likely to be unduly disruptive and may not result in the consumer benefits that the Commission is assuming. The shift to the new rate structure would be disruptive because, first, the new rate structure is likely to be substantially more complex than the current rate structure. It is unlikely that the current per-minute rate structure would simply be replaced with a "pure" per-trunk rate structure, given the continued role that tandem-switched transport continues to play. In all probability, local switching costs for tandem-switched transport would continue to be assessed on a per-minute basis, derived from the per-trunk rate using some type of complex equivalency formula.

MCI WorldCom is also concerned about the implementation costs that would be associated with the new rate structure, especially since IXCs are still reconfiguring their networks to take into account the significant rate structure changes adopted in the Access Reform First Report and Order.[14] The rate structure changes proposed in the Notice would in all likelihood necessitate a further round of network reconfiguration, with its associated costs. Changes to IXCs' networks would be required in order to take into account the per-trunk local switching rate structure's impact on the optimum number of trunk ports and on transport network design; the exact nature of these changes would depend in part on how local switching charges for tandem switched traffic would be assessed and the relative switching costs associated with DS1 and DS3 trunk ports.

It is doubtful that the new rate structure provides sufficient benefits to outweigh the implementation costs. In particular, the benefits that the Notice attributes to a capacity charge structure appear to be based on incorrect assumptions about traffic patterns. The Commission assumes that peak demand for trunk ports (and, therefore, for local switching capacity) is driven by business customers, and assumes that residential customers would benefit as IXCs dropped prices in the evening hours in an attempt to fill unused capacity.[15] But, in reality, the busy hour at many switches is driven by residential calling. Switches tend to either serve predominantly business customers or

---

[14]The rate structure changes resulting from the Access Reform First Report and Order will not be completed until January 1, 2000, when the remaining tandem switching costs included in the TIC are reallocated. Access Reform First Report and Order, 12 FCC Rcd at 16076.

[15]Notice at ¶ 212.

predominantly residential customers; at the switches that serve predominantly residential customers, the busy hour tends to be in the evening hours. In fact, MCI WorldCom has seen the pattern of evening busy hours become more pronounced recently, as it has responded to customer demand by reducing evening calling rates dramatically. Given this traffic pattern -- residential callers driving busy hour demand -- the Commission cannot assume that a per-trunk rate structure would benefit residential callers disproportionately.

B. The Commission Should Reduce the Per-Minute Local Switching Charge

Rather than order disruptive rate structure changes at this time, the Commission should focus on reducing the inflated level of today's per-minute local switching charges. The recent history of the Commission's access reform efforts shows that the best way to bring the benefits of access reform to residential callers is to drive down the level of per-minute access charges. In the two years since the Access Reform First Report and Order began reductions in the CCL rate and the TIC, MCI WorldCom's evening residential rate has dropped to only five cents per minute.

The price cap LECs' local switching rates have been inflated by a variety of factors. Some of these factors have inflated price cap LEC rates generally, while other factors are specific to local switching rates. Factors that have inflated price cap rates generally include initial price cap rates that were inflated because they reflected

nonexistent and overbuilt plant,[16] and the continued use of an X-factor that understates price cap LEC productivity growth. Factors that have specifically inflated local switching rates include (1) the use of a single, average X-factor for all baskets, even though productivity gains for local switching may have outpaced the gains for other access elements; (2) the Commission's adoption of the TIC targeting rule in the 1997 Access Reform First Report and Order -- of the price cap LECs' $2.6 billion in local switching revenues, over $400 million is attributable to the X-factor reductions that were targeted to the TIC instead of traffic sensitive rates in 1997, 1998, and 1999;[17] (3) the longstanding practice of recovering NTS local switching costs through per-minute rates, as discussed in the Notice;[18] and (4) the fact that the price cap LECs underestimated, in their January 1, 1998 access reform tariff filings, the portion of local switching costs attributable to line ports and trunk ports.[19]

The Commission's first step, before considering any significant rate structure changes, should be to correct for the factors that have caused the price cap LECs' local

---

[16]See In the Matter of Continuing Property Records Audits, Orders, ASD File No. 99-22, rel. March 12, 1999.

[17]See Attachment A. Attachment A shows that the RBOCs targeted $295 million in traffic sensitive basket X-factor reductions to the TIC from 1997 to 1999. Taking into the account the traffic sensitive basket X-factor reductions that other price cap LECs targeted to the TIC, and the growth in demand since 1997 and 1998, the value of the foregone X-factor reductions in current rates is likely to be between $400 and $500 million.

[18]Notice at ¶ 222.

[19]See January 1, 1998 Access Reform Tariff Filings, MCI Petition to Suspend and Investigate, December 23, 1997, at 4-7.

switching revenue to be inflated. MCI WorldCom has consistently advocated a prescriptive approach that would reduce interstate access charges, including local switching charges, to forward-looking economic cost. The Commission should immediately open a supplementary proceeding to establish forward-looking cost levels for access, by inviting parties to submit forward-looking economic cost models for Commission review.

In the interim:

- The Commission should modify its price cap formula to reflect true interstate productivity which, using the studies accepted by the Commission in 1997, equates to a productivity offset of 9.2 percent.[20] The Commission should also require a one-time adjustment back to 1995 based on the higher productivity factor.
- The Commission should initiate enforcement action based on the Accounting Safeguards Division (ASD) audit reports that found substantial and longstanding overstatements of the Regional Bell Operating Companies' (RBOCs') plant accounts. The RBOCs should be required to make a one-time adjustment to their price cap indexes to eliminate the effects of plant overstatements on the initial price cap rates.
- The Commission should correct for the effects of per-minute recovery of NTS local switching costs. This effect was particularly pronounced prior to January 1,

---

[20]See MCI WorldCom Comments, CC Docket No. 96-262, October 26, 1998, at 27-35.

1998, when the price cap LECs were recovering their NTS line port and trunk port costs through per-minute charges. Even after the reallocation of line port and trunk port costs, a portion of the remaining local switching costs are NTS.

- The Commission should correct for the effects on the per-minute local switching rate of the past use of an averaged X-factor, the TIC targeting process, and the price cap LECs' underestimation of the local switching costs attributable to line ports and trunk ports in their January 1, 1998 access reform tariff filings. The Commission could correct for these effects through one-time shifts of revenues to other baskets and to the local switching trunk port element, and also by targeting X-factor reductions to the local switching element.

The shift of revenues currently recovered through the per-minute local switching charge to other baskets and to the local switching trunk port element, through one-time adjustments or by targeting X-factor reductions to local switching, would not only reduce per-minute local switching rates but would also increase the proportion of price cap LEC revenues recovered through flat-rated elements. This approach would thus achieve many of the benefits suggested for the "capacity charge" concept, but without any burdensome rate structure changes.

V. Price Cap Issues

A. Price Cap Formula Changes

The Commission should adopt the changes to the price cap formula proposed in the Notice, replacing the current measure of GDP-PI with the chain-weighted GDP-PI and replacing the "g/2" component of the price cap formula with "g". As a practical matter, however, the replacement of g/2 with g will have only a minimal effect on the rate at which the per-minute CCL rate is eliminated. Only two price cap LECs, BellSouth and GTE, still have a significant amount of CCL revenue, and these LECs reported only modest growth in minutes per line in their most recent annual filing. GTE, in fact, reported a decline in minutes per line in two large study areas -- California and Texas.[21]

Rather than limiting the correction of the g/2 factor to future annual access filings, it is more important for the Commission to correct for the effects of past use of g/2 in the common line PCI formula. The Commission recognized over four years ago that "it is not necessary to create price cap incentives for LECs to increase growth in common line usage, because they have little influence over such growth."[22] Due to the use of g/2 in the common line PCI formula, the price cap LECs were given undue credit for the growth in minutes per line, and enjoyed this benefit for many years. And,

---

[21]GTOC Transmittal No. 1207, PCI-1, line 630 (GTCA, GTTX).

[22]Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd 8961, 9078 (1995).

because current PCIs are a function of past PCIs, the incorrect use of the g/2 factor is embedded in the current PCIs.

Just as the Commission reinitialized the price cap indexes to correct for the inclusion of the 1984 data point in the productivity study used to set the initial X-factor,[23] the Commission should reinitialize the common line basket PCIs to correct for past use of the g/2 factor. Each of the price cap LECs should be required to recompute its common line PCI assuming that g had been used in place of g/2 in all annual access filings since the start of price cap regulation. The downward adjustment to the common line PCI that would result from correction of the past use of g/2 would offset, at least in part, any increase in the common line PCI that might otherwise result from shifts of inflated local switching revenues to the common line basket.

B. Revisions to the Common Line Rate Calculations

The Commission should adopt the revisions to the common line rate calculation formulas that are proposed in the Notice. As the Commission notes, the current formula provides a windfall to the LECs if the growth in multiline business lines (and, in general, the growth in nonprimary lines) exceeds the rate of growth in primary lines. Under these circumstances, the "subsidy" provided by the multiline business lines exceeds what is required to make up the difference between the capped residential PICC and SLC rates and the allowed revenue per line. Recent growth in price cap LEC multiline business line demand has, in fact, substantially exceeded the growth in primary line demand.

---

[23] Id. at 9069-9070.

VI. CLEC Access Charges

In the Notice, the Commission asks a series of questions related to CLEC switched access charges. Previously, the Commission concluded that non-incumbent LECs should be treated as non-dominant in this market.[24] Since then, AT&T and some other carriers have observed that at least some CLECs may be imposing unreasonably high switched access charges for both terminating and originating access.[25] These claims raise the question of whether and how the Commission should continue or modify its policy of allowing market forces to discipline CLEC switched access charges.

MCI WorldCom shares the Commission's stated preference for marketplace solutions to constrain any CLEC from imposing unreasonable switched access charges. It would be an enormous step backward to subject these carriers to rate regulation. Insofar as marketplace solutions, in combination with clear and easily administrable rules, are unavailing, MCI WorldCom urges the Commission and carriers to make use of expedited enforcement proceedings to resolve disputes over the reasonableness of CLEC access charges.

At the outset, MCI WorldCom notes that there is no evidence in the record to demonstrate that unreasonably high CLEC access charges are ubiquitous or even widespread. Insofar as this problem exists, it is undoubtedly related to the continued

---

[24] See Access Reform First Report and Order, 12 FCC Rcd at 16140.

[25] See AT&T Declaratory Ruling Petition (filed October 23, 1998).

success of the ILECs in resisting the development of robust local exchange competition. Accordingly, the Commission should consider only incremental steps to address a problem that may turn out to be relatively short-lived. In this context, swift enforcement of relatively simple rules will be far more beneficial than additional regulation.

A preference for marketplace solutions dictates that the Commission maximize the benefits of competition where it is most feasible, and take advantage of those benefits elsewhere. Originating access charges are far more vulnerable to competitive pressures than are terminating access charges or the charges associated with "open end" services, such as toll free origination. This is so because the calling party chooses both the local and long distance providers. If long distance providers have a broad array of marketplace responses to high originating access charges, then CLECs will be less able to adopt such charges.

MCI WorldCom urges the Commission to allow IXCs broad marketplace discretion with respect to originating access charges. If an IXC believes that a CLEC's originating access charges are unreasonably high, the IXC should be allowed to take actions to avoid purchasing originating access from that CLEC.[26] Those actions could include, but should not be limited to: call blocking; filing a disconnect ASR with the CLEC ordering the CLEC not to originate traffic to the IXC's network; requesting that the ILEC block originating traffic from the CLEC at its access tandem; and surcharging

---

[26] The IXC should not, however, be able to refuse to pay the access charges of a CLEC while still receiving access services from that CLEC, as AT&T appears to have attempted. Such discretion would actually harm the marketplace since it would allow a carrier to receive a service without paying for it.

end user customers based on the originating access charges of their local service provider.[27] IXCs would of course retain other marketplace options, such as offering to provide the end user with a combination of local and long distance services. By affording IXCs a broad range of marketplace responses, the Commission would encourage parties to bargain for mutually agreeable access arrangements and minimize the risk of unreasonably high CLEC originating access charges.

Charges for terminating access and "open-end" services raise different issues. In neither case does the IXC necessarily share a customer with the CLEC. Since there is no shared customer, it is much more difficult for the IXC to find a marketplace response to unreasonably high access charges. For example, if an IXC were to block calls made by its subscribers to end users served by a CLEC that imposed high terminating access charges, it would be the IXC's customers, not the CLEC's, who would experience firsthand the frustration of call blocking.[28] Similarly, by blocking toll free traffic, the IXC would harm its own toll free customers, who are not also customers of the CLEC. Originating access is more vulnerable to competitive pressure because the IXC and the CLEC are both providing service to the same customer.

---

[27] Such surcharges should in no way implicate section 254(g) of the Telecommunications Act or the Commission's rules pursuant to that section, since the surcharges would be based not on a customer's location in a rural or urban area, but on the originating access charges of the customer's LEC. Nor should they complicate the problem of calculating urban and rural rates. In any calculation, the Commission could simply ignore these originating-access-related surcharges.

[28] This is distinguished from the blocking of originating access, whereby the IXC simply declines to serve the customers of CLECs that adopt unreasonable access charges.

MCI WorldCom recommends that the Commission establish a rule that would require non-dominant LECs to charge no more for terminating and "open-end" access than they charge for originating access. This would, in effect, extend the benefits from the more competitive market to the less competitive markets. MCI WorldCom believes that such a rule, along with recognition of broad marketplace discretion for IXCs to respond to high originating access charges, would eliminate the need for any further regulation of CLEC access charges. Moreover, the complaint process would remain available if an IXC found that a CLEC maintained unreasonably high access charges.

To promote the speedy resolution of complaints regarding the reasonableness of CLEC access charges, MCI WorldCom urges the Commission and all carriers to use the so-called "rocket docket." MCI WorldCom continues to believe that the Commission should facilitate this process by allowing IXCs to establish a prima facie case that a CLEC's charges are unreasonable by demonstrating that they exceed a benchmark level. Upon such a showing, the CLEC would have a burden to produce credible evidence to demonstrate that its charges are in fact reasonable. MCI WorldCom has previously recommended that NECA rates might provide a useful benchmark for this purpose.

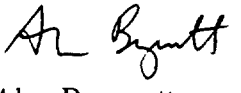
The use of this benchmark would not necessarily imply approval of NECA rates as reasonable for CLECs or any other carriers. It is only intended as a useful way to shift the burden of production in expedited complaint proceedings. Complaints about the charges of non-dominant carriers begin with a presumption of lawfulness. Given that presumption, it is appropriate that the complaining carrier make a strong case before any burden of production shifts to the non-dominant carrier. Moreover, even if the

complaining carrier fails to demonstrate that the CLEC's charges exceed the benchmark, it could still present other evidence to show that the charges are unreasonable. For example, an IXC might demonstrate that a particular CLEC had targeted a market niche by offering extraordinarily low prices to end users combined with unusually high access charges to carriers, even if those access charges did not exceed the benchmark rate. NECA rates should not constitute an affirmative defense for CLECs, but they could provide a useful reference point for the establishment of a prima facie case by IXCs.

VII. Conclusion

The Commission should foster competition in the local and long distance markets by driving down inflated price cap LEC local switching charges, and by placing strict limits on the price cap LECs' ability to preempt competition through non-cost common line rate deaveraging. Because there is no prospect that competitive entry will be able to constrain price cap LEC traffic sensitive and common line rates in the foreseeable future, the Commission should not adopt a Phase II pricing flexibility framework for traffic sensitive services at this time.

Respectfully submitted,
MCI WORLDCOM, INC.



Alan Buzacott
Henry G. Hultquist
1801 Pennsylvania Ave., NW
Washington, DC 20006
(202) 887-3204

October 29, 1999

Attachment A: Traffic Sensitive X-Factor Reductions Targeted to the TIC

	Ameritech	Bell Atl.	BellSouth	NYNEX	Pacific	SWBT	U S West	**Total**
1997	26,128,256	30,381,655	26,577,197	44,043,096	12,041,354	19,979,384	33,688,055	**192,840,994**
1998	8,809,890	16,188,550	0	24,972,847	0	4,323,773	14,569,761	**68,866,819**
1999	0	21,107,663	0	(Bell Atl.)	0	0	12,983,230	**34,092,892**
Total	34,938,146	67,677,868	26,577,197	69,015,943	12,041,354	24,303,157	61,241,046	**295,794,711**

Source: Ameritech Transmittal Nos. 1106, 1167; PCI-1
Bell Atlantic Transmittal Nos. 977, 1065, 1148
Bell South Transmittal No. 411-A
NYNEX Transmittal Nos. 461, 515
Pacific Transmittal No. 1921
SWBT Transmittal Nos. 2639, 2715
U S West Transmittal Nos. 847, 928, 995

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on October 29, 1999.

Alan Buzacott
Regulatory Analyst
1801 Pennsylvania Ave. NW
Washington, D.C. 20006
(202) 887-3204

CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Comments were sent via first class mail, postage paid, to the following on this 29th day of October, 1999.

International Transcription Services**
1231 20th Street, N.W.,
Washington, DC 20036

**HAND DELIVERED

Vivian I. Lee